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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 JOSHUA LEROY VANCE,

10 Plaintiff,

11 v.

12 ROBIN J. SMITH, KENNETH  
SAWYER,

13 Defendants.

CASE NO. 2:22-CV-320-BJR-DWC

ORDER DENYING MOTION FOR  
COURT-APPOINTED COUNSEL

14 The District Court referred this 42 U.S.C. § 1983 action to United States Magistrate  
15 Judge David W. Christel. On May 24, 2022, Plaintiff Joshua Leroy Vance filed an Application  
16 for Court-Appointed Counsel (“Motion”) and supporting statement. Dkt. 12, 13.

17 No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v.*  
18 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S.*  
19 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is  
20 discretionary, not mandatory”). However, in “exceptional circumstances,” a district court may  
21 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28  
22 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*  
23 *grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances exist, the  
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1 Court must evaluate both “the likelihood of success on the merits [and] the ability of the  
2 [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.”  
3 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718  
4 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an insufficient grasp  
5 of his case or the legal issues involved and an inadequate ability to articulate the factual basis of  
6 his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

7 In the Motion, Plaintiff states he has contacted eleven attorneys, but has been unable to  
8 find an attorney who will represent him. Dkt. 12. Plaintiff also provides evidence that he is  
9 unable to afford an attorney. *Id.* In his supporting statement, Plaintiff states he is mentally ill and  
10 this case is too complex for him to proceed *pro se*. Dkt. 13.

11 At this time, Plaintiff has not shown, nor does the Court find, this case involves complex  
12 facts or law. Plaintiff has also not shown he is likely to succeed on the merits of his case or  
13 shown an inability to articulate the factual basis of his claims in a fashion understandable to the  
14 Court. For example, after the Court instructed him to cure deficiencies in his Complaint, Plaintiff  
15 clearly articulated his claims in his Amended Complaint. *See* Dkt. 4-6. While Plaintiff may be  
16 able to better litigate this case with appointed counsel, that fact, alone, does not establish an  
17 extraordinary circumstance warranting the appointment of counsel. *See Rand*, 113 F.3d at 1525;  
18 *Wilborn*, 789 F.2d at 1331. Therefore, the Court finds Plaintiff has failed to show the appointment  
19 of counsel is appropriate at this time. Accordingly, Plaintiff’s Motion (Dkt. 12) is denied without  
20 prejudice.

21 Dated this 28th day of June, 2022.

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24 David W. Christel  
United States Magistrate Judge